IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

TUESDAY, THE 25TH SEPTEMBER 2007 / 3RD ASWINA 1929

WP(C).No. 27198 of 2007(S)

PETITIONER:

A.PRATHAPAN,PUTHUVAL PUTHEN VEEDU,
PARUTHIKUZHI,NADUVATHU KOVIL JUNCTION,
MUTTATHARA,THIRUVANANTHAPURAM.

BY ADV. SRI.ANIL K.NARENDRAN

RESPONDENTS:

A.THANKAMONY,D/O. AMBUJAKSHI,
MANUVILAKATHU VEEDU,MELANKODU,
NEMOM P.O., THIRUVANANTHAPURAM.

BY ADV.SRI.SUMAN CHAKRAVARTHY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P(C)No.27198/2007

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1. TRUE COPY OF EXPARTE JUDGMENT DATED 24-9-2001 IN O.S.NO.57/2000 OF THE FAMILY COURT, THIRUVANANTHAPURAM

EXT.P1(a) TRUE COPY OF EXPARTE DECREE DATED 24-9-2001 IN O.S.NO.57/2000 OF THE FAMILY COURT, THIRUVANANTHAPURAM

EXT.P2. TRUE COPY OF I.A.NO.417/2002 DATED 23-3-2002 FILED BY THE PETITIONER.

EXT.P2(a). TRUE COPY OF I.A.NO.418/2002 DATED 23-3-2002 FILED BY THE PETITIONER.

EXT.P3. TRUE COPY OF ORDER DATED 11-3-2005 OF THE FAMILY COURT, THIRUVANANTHAPURAM IN I.A.NO.417/02 AND 418/02 IN O.S.NO.57/2000.

EXT.P4. TRUE COPY OF I.A.NO.165/06 DATED 16-1-2006 FILED BY THE PETITIONER IN O.S.NO.57/2000.

EXT.P4(a). TRUE COPY OF I.A.NO.166/06 DATED 16-1-2006 FILED BY THE PETITIONER IN O.S.NO.57/2000.

EXT.P4(b). TRUE COPY OF I.A.NO.168/06 DATED 16-1-2006 FILED BY THE PETITIONER IN O.S.NO.57/2000.

EXT.P5. TRUE COPY OF COMMON ORDER DATED 22-6-2007 OF THE FAMILY COURT, THIRUVANANTHAPURAM, IN I.A.NOS.165/06, 166/06 AND 168/06 IN O.S.NO.57/2000.

/ TRUE COPY /

P.S.TO JUDGE

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

W.P(C)No.27198 of 2007

Dated this the 25th day of September, 2007

JUDGMENT

Kurian Joseph,J.

The writ petition is filed at the instance of the husband, defendant in O.S.No.57/2000, challenging Exts.P3 and P5 orders passed by the Family Court, Thiruvananthapuram declining to set aside Ext.P1 ex parte order. Though there is inordinate delay, in view of the pursuasive submission made by the learned counsel for the petitioner, reluctantly we passed an interim order dated 12-9-2007 directing the petitioner to pay costs to the respondent for defending the case before this court. It is brought to our notice that the litigation expenses as per the order has not been given to the respondent. On merits we find that there is absolutely no justifiable ground for condoning the delay in approaching the Family Court for setting aside Ext.P1, as rightly held by the Family Court. Even on the day of hearing of the petitioner for setting aside the ex parte order, the petitioner was absent. In view of such laches we do not think that the petitioner

deserves any indulgence either. Thus there is no merit in the writ petition. It is accordingly dismissed.

(KURIAN JOSEPH, JUDGE)

(HARUN-UL-RASHID, JUDGE)

ahg.